

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

FILED

2018 JUL 12 AM 11:30

JUDGE FRANK MONTALVO

WESTERN DISTRICT OF TEXAS

EP 18CV0212

UNITED STATES OF AMERICA,

Petitioner,

v.

ONE 2014 TOYOTA SIENNA, BEARING  
VEHICLE IDENTIFICATION NUMBER  
5TDKK3DC8ES508620,

Respondent.

CIVIL ACTION NO.

**VERIFIED COMPLAINT FOR FORFEITURE**

Petitioner the United States of America, by and through the United States Attorney for the Western District of Texas and the undersigned Assistant United States Attorney, pursuant to Rule G, Supplemental Rules of Federal Rules of Civil Procedure, and respectfully states as follows:

**I.**

**NATURE OF THE ACTION**

1. This action is brought by the United States of America seeking forfeiture to the United States of the property described below:

- One 2014 Toyota Sienna, Bearing Vehicle Identification Number 5TDKK3DC8ES508620,

hereinafter referred to as the "Respondent Property."

**II.**

**STATUTORY BASIS FOR FORFEITURE**

2. This is a civil forfeiture action *in rem* brought against the Respondent Property for violation of 8 U.S.C. § 1324(a)(1)(A)(ii) and (a)(1)(B)(ii).

3. The Respondent Property is forfeitable to the United States of America pursuant to 8 U.S.C. § 1324(b)(1), which subjects to civil forfeiture “[a]ny conveyance, including any vessel, vehicle, or aircraft, that has been or is being used in the commission of a violation of subsection (a), the gross proceeds of such violation, and any property traceable to such conveyance or proceeds, shall be seized and subject to forfeiture.”

### **III. JURISDICTION AND VENUE**

4. Pursuant to 28 U.S.C. § 1345, this Court has jurisdiction over an action commenced by the United States, and pursuant to 28 U.S.C. § 1355(a), jurisdiction over an action for forfeiture. This Court has *in rem* jurisdiction over the Respondent Property pursuant to 28 U.S.C. §§ 1355(b) and 1395(b). Venue is proper in this district pursuant to 28 U.S.C. § 1355(b)(1)(A), because the acts or omissions giving rise to the forfeiture occurred in this District, and pursuant to 28 U.S.C. §§ 1355(b)(1)(B) and 1395(b) because the Respondent Property was seized in this District.

5. The Respondent Property was seized in the Western District of Texas, in a parking lot at the intersection of Myrtle and Kansas St. in El Paso, Texas, on or about February 28, 2018. The Respondent Property has remained in the custody of DHS and/or deposited within the jurisdiction of the United States District Court, Western District of Texas, El Paso Division, and shall remain within the jurisdiction of the court pending litigation of this case.

### **IV. FACTS IN SUPPORT OF FORFEITURE**

6. On February 28, 2018, at approximately 5:00 a.m., Border Patrol Agents (BPAs) at the Clint, Texas station, apprehended three subjects making illegal entry into the United States. One of the subjects gave consent to search his phone and to answer any calls or text messages. BPA Juan Rodriguez proceeded to use the phone to pose as the subject and receive instructions for

where the subject was supposed to be picked up and taken elsewhere in the United States.

7. BPA Rodriguez and BPA Ricardo Mendoza wore plain clothes in order to pose as illegal aliens and went to a 7 Eleven store where they were told they would be picked up by a black minivan taxi. They were met by Mr. Maguina- Quintana who picked them up in the Respondent Property, which was marked as a taxi. BPAs Rodriguez and Mendoza told Mr. Maguina- Quintana they were nervous, because they had crossed into the country illegally. After driving around with Mr. Maguina-Quintana for a couple hours and verifying that he knew they were there illegally, they identified themselves to Mr. Maguina-Quintana and arrested him for being involved in an alien smuggling scheme.

8. On or about March 27, 2018, a grand jury sitting in the Western District of Texas, El Paso Division, returned a one-count Felony Information, EP-18-CR-00758-KC. charging Walter Raul Maguina-Quintana with transporting aliens, in violation of 8 U.S.C. §§ 1324(a)(1)(A)(ii) and (a)(1)(B)(ii).

9. On or about April 5, 2018, Maguina-Quintana pled guilty, pursuant to a written plea agreement to Count One of the Felony Information.

10. Bases upon Maguina-Quintana's admissions at his Rule 11 proceeding, the Respondent Property was involved in the transporting aliens offense.

11. The Respondent Property is subject to forfeiture pursuant to 8 U.S.C. § 1324(b)(1), as property involved in violations of 8 U.S.C. §§ 1324(a)(1)(A)(ii) & (a)(1)(B)(ii).

**V.**  
**PRAYER**

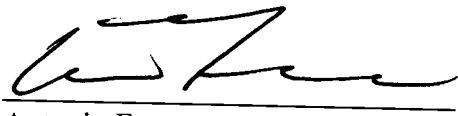
WHEREFORE, Petitioner, United States of America, prays that due process issue to enforce the forfeiture of the Respondent Property, that due notice pursuant to Rule G(4) be given

to all interested parties to appear and show cause why forfeiture should not be decreed<sup>1</sup>, that a warrant for an arrest *in rem* be ordered, that the Respondent Property be forfeited to the United States of America, that the Respondent Property be disposed of in accordance with the law and for any such further relief as this Honorable Court deems just and proper.

Dated: July 12, 2018  
El Paso, Texas

Respectfully submitted,

JOHN F. BASH  
United States Attorney for the  
Western District of Texas

By:   
Antonio Franco, Jr.  
Texas Bar No. 00784077  
Assistant United States Attorney  
700 E. San Antonio Ave., Suite 200  
El Paso, Texas 79901  
Tel: 915-534-3476  
Fax: 915-534-3461

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<sup>1</sup> Appendix A, which is being filed along with this complaint, will be sent to those known to the United States to have an alleged interest in the Respondent Properties.

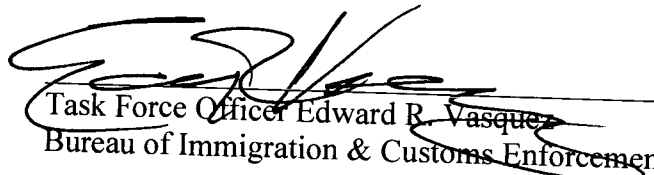
**VERIFICATION**

Task Force Officer Edward R. Vasquez, declares and says that:

1. I am a Task Force Officer with the Department of Homeland Security, United States Customs and Border Protection, Offices of Fines, Penalties and Forfeitures, assigned to the El Paso Field Office. I am the investigator responsible for the accuracy of the information provided in this litigation.
2. I have read the above Verified Complaint for Forfeiture and know the contents thereof based upon my personal participation in the investigation, my conversations with others, and my review of documents prepared by others. Based upon information and belief, the allegations contained in the Verified Complaint for Forfeiture are true and correct. Because the Verified Complaint is being submitted for the limited purpose of stating sufficiently detailed facts to support a reasonable belief that the government will be able to meet its burden of proof at trial, it does not contain every fact known by me or the United States. Where the actions, conversations, and statements of others are related therein, they are related in substance and in part, unless otherwise stated.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on this the 12<sup>th</sup> day of July, 2018.

  
Task Force Officer Edward R. Vasquez  
Bureau of Immigration & Customs Enforcement

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

FILED

2018 JUL 12 AM 10:08  
JUDGE FRANK MONTALVO

UNITED STATES OF AMERICA,

Petitioner,

v.

ONE 2014 TOYOTA SIENNA, BEARING  
VEHICLE IDENTIFICATION NUMBER  
5TDKK3DC8ES508620,

Respondent.

EP 18 CV 021

CIVIL ACTION NO.

DEPUTY

**NOTICE OF COMPLAINT FOR FORFEITURE**

1. On July 12, 2018, Petitioner United States of America, by its attorneys, John F. Bash, United States Attorney for the Western District of Texas, and Assistant United States Attorney Antonio Franco, Jr., filed a Verified Complaint for Forfeiture in the United States District Court for the Western District of Texas, against the property described below, which is also specifically described in the Verified Complaint for Forfeiture, and which is subject to forfeiture to the United States pursuant to 8 U.S.C. § 1324(b)(1), as property involved in violations of 8 U.S.C. §§ 1324(a)(1)(A)(ii) & (a)(1)(B)(ii), namely:

- **One 2014 Toyota Sienna, Bearing Vehicle Identification Number 5TDKK3DC8ES508620,**

hereinafter referred to as the "Respondent Property."

2. Pursuant to Rule G(4)(b) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, notice to any person who reasonably appears to be a potential claimant shall be by direct notice. Accompanying this notice is the Verified Complaint for Forfeiture which has been filed in this cause and which describes the Respondent Property.

Pursuant to Supplemental Rule G(4)(b), any person claiming an interest in the Respondent Property who has received direct notice of this forfeiture action must file a Claim in compliance with Rule G(5)(a), with the court within **thirty-five (35) days after the notice was sent, if delivered by mail (if mailed, the date sent is provided below), or within 35 days of the date of delivery, if notice was personally served.** An Answer or motion under Rule 12 of the Federal Rules of Civil Procedure must then be filed within **twenty-one (21) days** of the Claim being filed. The Claim and Answer must be filed with the Clerk of the Court, 525 Magoffin, Suite 105, El Paso, Texas 79901, and copies of each must be served upon Assistant United States Attorney Antonio Franco, Jr., 700 E. San Antonio Ave, Suite 200, El Paso, Texas 79901, or default and forfeiture will be ordered. *See* 18 U.S.C. § 983(a)(4)(A) and Rule G(5) of the Supplemental Rules for Admiralty or Maritime Claim and Asset Forfeiture Actions.

Failure to follow the requirements set forth above will result in a judgment by default taken against you for the relief demanded in the complaint.

#### **APPENDIX A**

**DATE NOTICE SENT:** \_\_\_\_\_

JOHN F. BASH  
United States Attorney for the  
Western District of Texas

By: \_\_\_\_\_  
Antonio Franco, Jr.  
Assistant United States Attorney  
Texas Bar No. 00784077  
700 E. San Antonio Ave., Suite 200  
El Paso, TX 79901  
Tel: 915-534-6884  
Fax: 915-534-3461

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

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UNITED STATES OF AMERICA,

Petitioner,

v.

ONE 2014 TOYOTA SIENNA, BEARING  
VEHICLE IDENTIFICATION NUMBER  
5TDKK3DC8ES508620,

Respondent.

JUDGE FRANK MONTALVO  
U.S. DISTRICT OF TEXAS  
**EP 18 CV 0212** DEPUTY  
CIVIL ACTION NO.

**ORDER FOR WARRANT OF ARREST OF PROPERTY**

WHEREAS, on July 12, 2018, Petitioner United States of America, by its attorneys, John F. Bash, United States Attorney for the Western District of Texas, and Assistant United States Attorney Antonio Franco, Jr., filed a Verified Complaint for Forfeiture in the United States District Court for the Western District of Texas, against one 2014 Toyota Sienna, bearing Vehicle Identification Number 5TDKK3DC8ES508620, seized on or about February 28, 2018, in El Paso, Texas, in the Western District of Texas (hereinafter referred to as the "Respondent Property"), alleging that the Respondent Property is subject to forfeiture to the United States of America pursuant to 8 U.S.C. § 1324(b)(1), as property involved in violations of 8 U.S.C. §§ 1324(a)(1)(A)(ii) & (a)(1)(B)(ii),

IT IS THEREFORE ORDERED that a Warrant for the Arrest of Property against the Respondent Property issue as prayed for, and that the United States Customs and Border Protection, Offices of Fines, Penalties and Forfeitures, and/or Homeland Security Investigations, or any other law enforcement officer, or any other person or organization authorized by law to



enforce the warrant, be commanded to arrest the Respondent Property and take it into possession for safe custody as provided by Rule G, Supplemental Rules of Federal Rules of Civil Procedure, until further order of the Court, and to use whatever means may be appropriate to protect and maintain it in their custody, including designating a substitute custodian or representative for the purposes of maintaining the care and custody of the Respondent Property, and to make a return as provided by law.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

FILED

2018 JUL 12 AM 11:30

JUDGE FRANK MONTALVO  
WESTERN DISTRICT OF TEXAS

UNITED STATES OF AMERICA,

Petitioner,

v.

ONE 2014 TOYOTA SIENNA, BEARING  
VEHICLE IDENTIFICATION NUMBER  
5TDKK3DC8ES508620,

Respondent.

EP 18 CV 0212

CIVIL ACTION NO.

WARRANT FOR THE ARREST OF PROPERTY

TO THE UNITED STATES CUSTOMS AND BORDER PROTECTION, OFFICE OF  
FINES, PENALTIES AND FORFEITURES, HOMELAND SECURITY  
INVESTIGATIONS OR OTHER AUTHORIZED LAW ENFORCEMENT OFFICER OR  
ANY OTHER PERSON OR ORGANIZATION AUTHORIZED BY LAW TO ENFORCE  
THE WARRANT:

WHEREAS, on July 12, 2018, Petitioner United States of America, by its attorneys, John F. Bash, United States Attorney for the Western District of Texas, and Assistant United States Attorney Antonio Franco, Jr., filed a Verified Complaint for Forfeiture in the United States District Court for the Western District of Texas, against one 2014 Toyota Sienna, bearing Vehicle Identification Number 5TDKK3DC8ES508620, seized on or about February 28, 2018, in El Paso, Texas, in the Western District of Texas (hereinafter referred to as the "Respondent Property"), alleging that the Respondent Property is subject to forfeiture to the United States of America pursuant to 8 U.S.C. § 1324(b)(1), as property involved in violations of 8 U.S.C. §§ 1324(a)(1)(A)(ii) & (a)(1)(B)(ii), and

WHEREAS an Order has been entered by the United States District Court for the Western District of Texas that a Warrant for Arrest of Property be issued as prayed for by Petitioner United States of America,

YOU ARE THEREFORE COMMANDED to arrest the Respondent Property as soon as practicable by serving a copy of this warrant on the custodian in whose possession, custody or control the Respondent Property is presently found, and to use whatever means may be appropriate to protect and maintain it in your custody until further order of this Court, including designating a substitute custodian or representative for the purposes of maintaining the care and custody of the Respondent Property and to make a return as provided by law.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

JEANNETTE J. CLACK  
United States District Clerk  
Western District of Texas

By: \_\_\_\_\_  
Deputy

JS 44 (Rev. 12/12)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

UNITED STATES OF AMERICA

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Antonio Franco, Jr., Assistant United States Attorney  
700 E. San Antonio, Suite 200  
El Paso, Texas 79901 (915) 534-6884

## DEFENDANTS

1. One 2014 Toyota Sienna, Bearing Vehicle Identification Number  
5TDKK3DC8ES508620

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY) U.S. DISTRICT COURT  
DISTRICT OF TEXASNOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

JUDGE FRANK MONTALVO

EP 18 CV 02 12

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input checked="" type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Tide XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

## V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from Another District (specify)  
☐ 6 Multidistrict Litigation

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
8 U.S.C. 1324(b)(1)

Brief description of cause:

Property involved or used in a knowing violations of 8 U.S.C. §§1324(a)(1)(A)(ii) &amp; (a)(1)(B)(ii)

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.  
 DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

07/12/2018

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE